

ZONING BOARD OF APPEALS

Ipswich, Massachusetts

APPROVED 6.18.2020

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Meeting Minutes

May 21, 2020

Pursuant to a written notice posted by the Town Clerk and published in the Ipswich Local News, a newspaper of general circulation; the Ipswich Zoning Board of Appeals held a meeting on Thursday May 21, 2020 at 7:30 p.m. remotely via Zoom Video Conferencing, in accordance with the Governor's March 12, 2020 Order suspending provisions of the Open Meeting Law to promote public health and safety and social distancing during the corona virus public health emergency.

Members tuned in were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Becky Gayton, and Robert Clocker and Associate Member Justin Planasch. Robert Tragert was absent with prior notice.

Also, Administrative Assistant Marie Rodgers. Paul Haverty MHP was present for the 40B's located at Town Farm Rd & 25 Pleasant St.

This meeting was recorded.

Citizen Queries:

► Roger LeBlanc and Sarah Winderlin, RDL Apartments, 120 County Road, Ipswich, MA were present along with their Architect Ken Savoie of Savoie Nolan Architects, LLC 4 S. Main Street, Ipswich, MA to discuss renovations to the Whittier Motel; A Special Permit was granted few months back to convert the motel to multifamily residential studio units with kitchenettes. Due to construction and code issues he would like to rebuild a section of the building on the same foundation keeping the same number of units and current building scale; involving units 18 thru 27. Process and procedures were discussed. It was determined that Mr. LeBlanc would file a Special Permit.

► Elizabeth Townsend, 217 Argilla Road asked if her Petition could be first on the agenda. Chair noted that due to a flawed legal notice, which read 17 instead 217, re-advertising would be required for the Petition to be heard at the June 18, 2020 meeting. Mr. Fierro agreed a proper legal notice is essential in order to comply with the law.

► Linda Alexson expressed her concerns about construction is underway of a large structure at 1 Broadway; it has not gone before ZBA or Planning Board. She questioned the process in which it received a building permit. Chair Gambale said he is awaiting a reply from Town Counsel and he will get back to her.

Announcements:

Chairman Gambale announced at the Petitioner's request to withdraw her Petition in an email dated Thu 5/14/2020

17 Liberty Street, Karen Rosell requests a Special Permit pursuant to, but not limited to Sections XI.J and II.B2 to reduce the rear and side yard setback no greater than 50% of the required, to reconstruct a detached garage 16'x24'. (Assessor's Map 41B Lot 225) located in IR Zoning District.

Documents and exhibits used by the Appeals Board: Email dated May 14, 2020 with request to withdraw from Karen Rosell.

Continued Public Hearings:

Chairman announced the continuation of the following public hearings at the request of the Petitioners -

26 Essex Road (Assessor's Map 54A, Lot 14A) **36 Essex Road** (Map 54C, Lot 22); **38 Essex Road** (Map 54C, Lot 22A) **42 Essex Road**, (Map 54C, Lot 23) and **44 Essex Road** (Map 54C, Lot 24) **Essex Pastures, LLC** requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct one hundred ninety-four (194) residential rental units, of which forty-nine (49) units would be affordable to households earning no more than eighty-percent (80%) of the area median income. (continued from the June, 2018 all of 2019; through January, February, March and April 2020 meetings)

Documents and exhibits used by the Appeals Board: Email dated May 12, 2020 with request to continue to June 18, 2020 meeting and Extension of time to June 30, 2020 time stamped in May 18, 2020

40 Pineswamp Road - Peter Pappalimberis requests an **Appeal** of the Building Commissioner's Violation Notice and Order under Zoning, but not necessarily limited to, Sections V.D and XI.G, to discontinue operating an establishment for the repair and/or service of automobiles, trucks and engines which is prohibited in RRA zoning district; unpermitted shed and/or prohibited storage containers; open storage of junk metal and storage of unregistered and unenclosed vehicles at 40 Pineswamp Road (Assessor's Map 41A, Parcel 8A) (continued from the November 2019 and January, February, March and April 2020 meetings)

Documents and exhibits used by the Appeals Board: email dated Mon 5/18/2020 from Attorney Effie Panagiotakis, Esq. 265 Essex Street, Suite 203, Salem, Ma requesting to continue to June 18, 2020 meeting.

217 Argilla Road, Jeffrey Allsopp requests a special permit pursuant to, but not limited to Section XI.J and II.B.2 to replace the existing non-conforming barn and with a new barn within the existing footprint, no closer than 6'.6" to the right side yard setback. (Assessor's Map 44, Lot 34) in the Rural Residential A (RRA) Zoning District.

Chair continued the public hearing due to a flawed legal notice, to the June 18th, 2020 meeting to be held in Room A in Town Hall or remotely via Zoom at 7:30 p.m.

Public Hearings:

30 and 34 Town Farm Road and 17 Locust Road, Kieran McAllen requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct 40 age-restricted for-sale dwelling units (20 duplexes), of which 25% would be subsidized for low to moderate income use (Assessor's Map 30B, Lots 63, 37A and 33) (continued from the May 2017; all of 2018; all of 2019; through January, February, March and April 2020 meetings)

Chairman Gambale read the legal notice and re-opened the public hearing at 7:53 p.m.

The Petitioner Kieran McAllen, Afaf Georgis, Ed Champy and Patrick Bower, Civil Engineer, and Richard A. Kirby, Senior Wetland Scientist, LEC Environmental Consultants, Inc. were all present, represented by Attorney Richard Kallman.

Patrick Bower Civil Engineer spoke to the development using force main Environmental 1 pump stations. The elevations are not conducive for a gravity system. The force main will start at the entrance of Town Farm Road, anyone one on Locust Road can tie in at their own expense

Discussion turned to the designs of the home and handicapped accessibility; some units will be adaptable to retrofitting for accessibility.

The construction sequence will be incorporated to the decision; Vicki Halmen Water and Wastewater Director submitted her approval for the construction sequence and had no further questions.

Richard A. Kirby, Senior Wetland Scientist, LEC Environmental Consultants, Inc. reviewed the waivers granted by the Conservation Commission. The OOC was issued 1.29.2020. He cited the section of the bylaws and waivers granted. Discussion was held concerning the specific waivers in which the Board will consider. The most up-to-date landscape plan prepared by Cole Landscaping is dated 1/15/19 and is referenced in the OOC.

In response to Chair Gamble's question regarding the location of fire hydrants. Mr. Bower said modifications to the locations were made to everyone's satisfaction i.e. Fire Chief and Vickie Halmen.

In response to Mr. Clocker's question concerning the last waiver, seems to be a 'catch all' statement. Paul Haverty, MHP consultant for the Board indicated that generally he is against that type of condition and supports identifying waivers necessary to construct the plan as shown, but, haven't been called out; it helps the developers to know whether they need a waiver or if, the decision would require a request for modification.

Kieran McAllen indicated that the current dwelling will be used as a construction office, and then it will be razed.

Discussion Paul Haverty has submitted a working draft of the decision and that incorporates the revised waiver list.

Attorney Kallman will request an additional Extension of Time.

As there were no further comments or discussion, **Chair continued the public hearing to the June 18th, 2020 meeting to be held in Room A in Town Hall or remotely via Zoom at 7:30 p.m.**

Documents and exhibits used by the Appeals Board: Thu 5/14/2020 10:25 AM Rich Kallman email with attachments titled: LIST OF WAIVERS 14 pages and Waiver Request for the Ipswich Wetlands Protection Bylaw 2 pages

25 Pleasant Street, Elder Friendly Housing, LLC. Karl Mayer requests a Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct eight (8) age-restricted for-sale dwelling units of which 25% (2 units) would be subsidized for low to moderate income use. (Map 41B Lot 043) (continued from August 2018; all of 2019; March, and April 2020 meetings) Paul Haverty MHP Consultant was present.

Chairman Gambale read the legal notice and re-opened the public hearing at 8:47p.m.

Attorney Paul Ross representing the applicant reviewed another submission in response to questions and concerns from the April meeting. He cited the 14 documents submitted (hereby incorporated by reference)

Chairman Gambale noted a recent bylaw change concerning parking 1.5 parking spaces required for one bedroom unit and two parking spaces required for two bedroom units. Fifteen spaces would be required for the current five unit building with two bedrooms and the three unit building with single bedrooms. Attorney Ross replied that he would have to look at that more closely (currently there's 12 parking spaces and 4 handicapped spaces)

Discussion ensued concerning the outdoor recreational space. Chairman Gambale expressed his concerns for the lack of outdoor recreational space and indicated that he would not vote for this development as is. Attorney Ross noted the locations for two outdoor grills. Mr. Fierro commented his support for affordable housing. He expressed his concerns for this project goes back to August 2018 with Select Board and Planning Board comments regarding density; this project as proposed is ratio 31 units to an acre, denser than Essex Rd proposal; eight units on a quarter acre is a problem. He spoke to DHCD guidelines at one time regarding density; for multi-family it was twenty units per acre. Smart Growth under 40R has a minimum density for multi-family twenty units per acre. This project proposes thirty-one units per acre and squeezes out any meaningful green space. This is in an urban setting where everyone has a yard. The units don't even have a balcony. Problems arises from squeezing eight units on this site creates all kinds of design problems.

Attorney Ross indicated balconies may create a problem for the neighborhood; it will be considered.

Mr. Clocker spoke to quantity verses the quality of open space. The green space created overlooks cars. He opined that the smaller open space, the better quality it has to be.

Attorney Ross initiated discussion concerning the building height and the difference between a six –foot pitched room and an eight –foot pitched roof. Mr. Clocker opined eight-foot pitch was more in line with the surrounding neighborhood buildings. Attorney Ross said he would keep it at eight-foot pitch for now.

Attorney Ross spoke to the exterior stair design. Enclosed design means the tread and risers are not open.

Discussion concerning three types and location of bike racks, the landscape, the lighting plan and fence design. An 8-foot fence vs. a 6-foot fence. Board members opined that an 8' fence feels more confining. The light plan does not show a fence or the potential reduction of light on the abutting property

Paul Nordburg, 19 Pleasant Street spoke to the density which needs to be resolved head on, safety is marginal, short sight lines, lack of pleasurable outdoor space, and he opined that the project is fundamental flawed with trying to do too much, with too little space.

Keri MacRae, 31 Heartbreak Road expressed her concerns for the scope of the project and impacts on the surrounding neighborhood. She hoped the Board understood that this is a 40-50% increase in density; profit should not be at the expense of the citizens of this town.

Julie O'Leary, 23 Pleasant St said she is a new resident in the neighborhood, she like the neighborhood 'feel' and expressed her concerns about seeing the plans for a project of this density; the lack of green space and worried about the runoff going directly into her basement, with the new pavement and location on a hill. (Chair noted that storm water plan proposes to direct runoff into catch basins.)

Mr. O'Leary, 23 Pleasant St asked about the height of the light poles and light pollution.

Chair indicated that they could be lowered and the lighting is still under review.

Ted and Kathleen Spinelli, 27 Pleasant Street are direct abutters. They expressed their concerns about the density. The fence is not solid and has gaps in it; the height is proposed height eight feet and descends to four feet, near the street, right where their house is located the light plan shows it close to their den and bedroom a fence may block some of the light.

Landscape of cherry trees proposed have a 20-25' width. Initially, arborvitaes were proposed. The intention is to block noise and light.

Attorney Ross clarified it was suppose to be a solid fence; arborvitaes were changed to trees that could be pruned on the lower section.

As there were no further comments or discussion, **Chair continued the public hearing to the June 18th, 2020 meeting to be held in Room A in Town Hall or another remote meeting on Zoom at 7:30 p.m.**

Documents and exhibits used by the Appeals Board: two page letter from Attorney Ross re: May submission; landscape items May 2020; Greenspace May 2020; Light Pole Spec; Photometric Light Plan; Light Fixture Spec; Site Cross Sections 5.12.2020; Site Plan dated 5.12.2020; Trim Style for Exterior Stairways; 3-Unit Elevations; 5-Unit elevations; 5-Unit elevations right and left. Email from DPW Frank Ventimiglia dated 8.24.2018. Select Board comments dated 8.28.2018.

New Public Hearing:

5 Hickory Lane, Douglas Smith for a **Special Permit** pursuant to, but not necessarily limited to Sections XI.J and VI.F, Requirements for Accessory Buildings and Structures, to construct an Accessory Structure (1,260 sq. ft.) greater than 750 square feet at, located in the Rural Residential A (RRA) Zoning District. (Assessor's Map 38C, Lot 026) continued from the March and April meetings.

Chairman Gambale read the legal notice and re-opened the public hearing at 9:44 p.m.

The Petitioner was tuned in, represented by his Architect Ken Savoie of Savoie Nolan Architects, LLC 4 S. Main Street, Ipswich, MA; he reviewed the special permit request for a detached garage greater than 750 sq. ft. and higher than 25ft. on a lot less than five acres located in RRA zoning district the lot area is approximately 1.03 acres. The footprint of proposed garage will be 30 feet wide by 42-feet long with a total building area of 1,260 sq. feet. Two stories high approximately 28 feet above average grade.

He spoke to the lower elevations providing the appearance more in line with a single-story structure when viewed from the street. He spoke to the use and design. The ground level will be used to store vehicles and loft level for recreational used containing a full bath, but not a kitchen. There will be no sleeping quarters. He then spoke to the exterior design and large size keeping in with the design of the primary structure. With attached elevated walkway to the primary structure.

Chair Gambale initiated discussion concerning the location of a driveway. Mr. Savoie explained the driveway currently exist in the location of the basketball court and hockey rink. An existing shed will be relocated. He established that the existing dwelling has a two car garage.

Mr. Savoie clarified the design and elevations and location of the driveway access. The relief needed from area limit and for the extra three feet in height it is needed to position a hoist property that will be used to reposition vehicles. The six-foot nine inch of height of the copula, which are usually exempt from height limitations.

Chair Gambale noted the building height exceeds what is allowed in the bylaws; the Board typically does not allow a full bath in structures exceed 750 s.f. He then compared the size to other structures and lots in the surrounding neighborhood.

Mr. Savoie spoke to the size and height and the diminished appearance due to the lower elevations. Discussion ensued concerning the use of a hoist, reducing depth would reduce the height, work area will be provided with more room around the cars; the reason for additional height of three-feet plus six-feet, nine inches? The Petitioner indicated any functional barn has a copula and it is to make it attractive from all sides. He added that neighbors have signed in approval and have no issues with his proposal.

Mr. Fierro initiated discussion concerning a full bath with a shower, future potential for conversion for an illegal accessory dwelling. Mr. Clocker noted that the physical features are very similar to a Private Guest House. The Petitioner may be willing to remove the shower.

Discussion and debate was held concerning previous granted special permits for accessory structures exceeding 750 s.f. subject to a cold water spigot only and bathroom on the first floor. The intent of the bylaw and the surrounding character of the neighborhood. Paul Hurd, at 65 Old Right Road is a direct abutter. He indicated that his property overlooks the Petitioners property and expressed his concerns for the size larger than structures in the general area; he will be able to see it from his home.

Mr. Fierro cited special permit criteria and determined no trees will be cut down. He agreed with the Petitioner due to the elevation it's probable it will not been seen; he has no problem with half bath.

In response to Mr. Fierro, the Petitioner said he has not spoken with abutter Paul Hurd.

Mr. Hurd said the properties abut and opined that he will be impacted the most; he has seen the light from the hockey rink.

Discussion and debate between the Petitioner and Mr. Hurd was held; opinions of the rural area and industrial parks along Route 1.

Chair Gambale expressed his concerns for the size, excessive height and compatibility with the neighborhood, it's like another house on the lot.

Mr. Savoie asked for a sense of the Board; Gayton, Vlahos ok, Fierro ok – Gambale and Clocker asked to make the proposal more compatible.

Mr. Savoie requested to continue to the June 18th, 2020 meeting to review and come back with modifications.

The Petitioner listed the neighbors from which he received signatures in agreement from the Sheridan's, Moses, Destefanos, Duffys'; he will scan and send to the ZBA office.

As there were no further comments or discussion. At Mr. Savoie' s request, the **Chair continued the public hearing to the June 18th, 2020 meeting, to be held in Room A in Town Hall or another remote meeting on Zoom at 7:30 p.m.**

Documents and exhibits used by the Appeals Board: Petition and associated documents. Letter of support from Betsy Clapp email dated 4.5.2020

New Business:

Chair announced an opening for new ZBA member.

Approval of Minutes:

Mr. Fierro moved to approve meeting minutes of 4.16.2020. Mr. Vlahos seconded, the motion passed unanimously. *(meeting minutes hereby incorporated by reference)*

Adjourn - It was moved, seconded and unanimously voted to adjourn at 10:50 p.m.

Respectfully submitted,
Marie Rodgers
Administrative Assistant

These minutes were approved with minor edits by the Board on June 18, 2020

Pursuant to the 'Open Meeting Law' the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting; the members present or absent; the findings made and actions taken. Any other description of statements made by any person, or the summary of the discussion on any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.